

AMENDED IN ASSEMBLY AUGUST 15, 2005

AMENDED IN ASSEMBLY JULY 7, 2005

AMENDED IN ASSEMBLY JUNE 22, 2005

AMENDED IN SENATE MAY 27, 2005

AMENDED IN SENATE APRIL 12, 2005

SENATE BILL

No. 655

Introduced by Senator Ortiz

(Coauthor: Assembly Member Goldberg)

February 22, 2005

An act to amend Section 11010 of the Business and Professions Code, to amend Section 1103.4 of the Civil Code, to amend Sections 65302 and 65302.5 of the Government Code, to add Section 25928 to the Health and Safety Code, to amend Section 2699.5 of, and to add Chapter 7.7 (commencing with Section 2680) to Division 2 of, the Public Resources Code, relating to asbestos.

LEGISLATIVE COUNSEL'S DIGEST

SB 655, as amended, Ortiz. Asbestos.

(1) Existing law requires a person who intends to offer subdivided lands within California for sale or lease to file with the Department of Real Estate an application for a public report consisting of a notice of intention that includes various statements regarding the condition of the property that may affect the use of the property.

This bill would additionally require the notice of intention filed with the application for a public report to include a statement indicating that the property is within an asbestos hazard zone and to provide a specified notice.

(2) *Existing law limits the liability of a transferor for failing to disclose natural hazards in a specified property transaction if the transferor retains a licensed engineer, land surveyor, geologist, or expert in natural hazard discovery dealing with matters within the scope of the professional's license of expertise.*

This bill would condition the limitation on liability described above by requiring an expert in natural hazard disclosure, when responding to a request regarding natural hazards, to also determine whether the property is within an asbestos hazard zone and to provide a specified notice.

(1)

(3) Existing law requires that a city or county general plan contain specified elements, including a safety element for the protection of the community from any unreasonable risks associated with the effects of seismically induced surface rupture, ground shaking, ground failure, tsunami, seiche, and dam failure; slope instability leading to mudslides and landslides, subsidence, liquefaction, and other seismic, geologic, and fire hazards.

This bill would additionally include specified asbestos hazards among those hazards required to be identified in the safety element of a general plan, thereby creating a state-mandated local program by imposing new duties on local agencies.

(2)

(4) Existing law provides for the Asbestos Assessment Task Force, composed of representatives from the State Department of Health Services, the Department of Industrial Relations, the Department of General Services, and the Commission on Building Standards, to analyze the magnitude of the asbestos problem in public buildings.

This bill would require the California Environmental Protection Agency (Cal-EPA) to convene ~~a task force~~ *the Naturally Occurring Asbestos Task Force*, consisting of representatives of *the State Air Resources Board*, the Office of Environmental Health Hazard Assessment, the Department of Toxic Substances Control, ~~the State Air Resources Board~~, the State Department of Health Services, *the Department of Conservation*, and if they agree to participate, representatives of Region IX of the United States Environmental Protection Agency, and the Agency for Toxic Substances and Disease Registry of the United States Department Health and Human Services to evaluate *and suggest guidance policies and adopt guidelines for the mitigation of best management practices to mitigate risks associated*

with *activities in areas with* naturally occurring asbestos. The bill would also require Cal-EPA to request the participation on the task force of 4 representatives from the air quality management districts, who are selected by ~~these~~ *those* districts, in areas that are impacted by naturally occurring asbestos *and 2 representatives from cities and 2 representatives from counties that are impacted by naturally occurring asbestos.*

The bill would prohibit Cal-EPA from convening that task force to take those actions until federal funds are received by the agency for that purpose.

The bill would require the task force, upon convening, to develop the best management practices within a year.

~~(3)~~

(5) Funds in the Strong-Motion Instrumentation and Seismic Hazards Mapping Fund, upon appropriation by the Legislature, are allocated to the Division of Mines and Geology in the Department of Conservation for purposes relating to seismic hazards identification and mapping.

This bill would require that moneys in the fund also be allocated, upon appropriation by the Legislature, for purposes relating to asbestos hazards identification and mapping.

This bill would establish the Asbestos Hazards Mapping Act, which, among other things, would require the State Geologist to compile maps identifying asbestos hazard zones, as specified, and, upon completion, to submit those asbestos hazard maps to the State Mining and Geology Board and all affected cities, counties, and state agencies for review and comment. The act would require concerned jurisdictions and agencies to submit all comments to the board for review and consideration, and would require the State Geologist, within 90 days from the date of that submission, to revise the maps, as appropriate, and provide copies of the official maps to each state agency, city, or county, including the county recorder, having jurisdiction over lands containing an area of asbestos hazards. The act would require cities and counties, prior to approval of a project located in an asbestos hazard zone, to require ~~a geotechnical report defining and delineating any asbestos hazards, as provided~~ *compliance with the applicable local government rules, regulations, and ordinances, including, but not limited to, airborne toxic control measures, to mitigate the impact of naturally occurring asbestos. The act would further require a city or county issuing a permit for an*

activity, which may result in soil disturbance and which is not subject to a local air quality management district's regulations or project approval process, and to provide the applicant with a one-page summary of measures that may be taken to reduce or mitigate exposure to naturally occurring asbestos, thereby creating a state-mandated local program by imposing new duties on local agencies. The act would require each city and county, in preparing the safety element of its general plan, and in adopting or revising land use planning and permitting ordinances, to take into account the information provided in available asbestos hazards maps.

The act would require, on or before July 1, 2006, the State Mining and Geology Board, in consultation with the Director of Conservation and the State Lands Commission, to develop specified guidelines, priorities, and procedures for asbestos hazards mapping, as provided.

The act would require a person who is acting as an agent for a transfer of real property that is located within an asbestos hazard zone, as designated, or the transferor if he or she is acting without an agent, to disclose to any prospective transferee the fact that the property is located within an asbestos hazard zone city or county receiving an official asbestos hazard map from the State Geologist to require the disclosure of real property that is located in an asbestos hazard zone on a specified form.

The act would require the Department of Real Estate to include in the next edition of the "Homeowners' Guide to Environmental Hazards," but in no event later than January 1, 2007, information and consumer resources regarding naturally occurring asbestos and the asbestos hazard map.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 11010 of the Business and Professions*
2 *Code is amended to read:*

3 11010. (a) Except as otherwise provided pursuant to
4 subdivision (c) or elsewhere in this chapter, ~~any~~ a person who
5 intends to offer subdivided lands within this state for sale or lease
6 shall file with the Department of Real Estate an application for a
7 public report consisting of a notice of intention and a completed
8 questionnaire on a form prepared by the department.

9 (b) The notice of intention shall contain the following
10 information about the subdivided lands and the proposed
11 offering:

12 (1) The name and address of the owner.

13 (2) The name and address of the subdivider.

14 (3) The legal description and area of lands.

15 (4) A true statement of the condition of the title to the land,
16 particularly including all encumbrances thereon.

17 (5) A true statement of the terms and conditions on which it is
18 intended to dispose of the land, together with copies of any
19 contracts intended to be used.

20 (6) A true statement of the provisions, if any, that have been
21 made for public utilities in the proposed subdivision, including
22 water, electricity, gas, telephone, and sewerage facilities. For
23 subdivided lands that were subject to the imposition of a
24 condition pursuant to subdivision (b) of Section 66473.7 of the
25 Government Code, the true statement of the provisions made for
26 water shall be satisfied by submitting a copy of the written
27 verification of the available water supply obtained pursuant to
28 Section 66473.7 of the Government Code.

29 (7) A true statement of the use or uses for which the proposed
30 subdivision will be offered.

31 (8) A true statement of the provisions, if any, limiting the use
32 or occupancy of the parcels in the subdivision.

1 (9) A true statement of the amount of indebtedness that is a
2 lien upon the subdivision or any part thereof, and that was
3 incurred to pay for the construction of any onsite or offsite
4 improvement, or any community or recreational facility.

5 (10) A true statement or reasonable estimate, if applicable, of
6 the amount of any indebtedness which has been or is proposed to
7 be incurred by an existing or proposed special district, entity,
8 taxing area, assessment district, or community facilities district
9 within the boundaries of which, the subdivision, or any part
10 thereof, is located, and that is to pay for the construction or
11 installation of any improvement or to furnish community or
12 recreational facilities to that subdivision, and which amounts are
13 to be obtained by ad valorem tax or assessment, or by a special
14 assessment or tax upon the subdivision, or any part thereof.

15 (11) (A) As to each school district serving the subdivision, a
16 statement from the appropriate district that indicates the location
17 of each high school, junior high school, and elementary school
18 serving the subdivision, or documentation that a statement to that
19 effect has been requested from the appropriate school district.

20 (B) In the event that, as of the date the notice of intention and
21 application for issuance of a public report are otherwise deemed
22 to be qualitatively and substantially complete pursuant to Section
23 11010.2, the statement described in subparagraph (A) has not
24 been provided by any school district serving the subdivision, the
25 person who filed the notice of intention and application for
26 issuance of a public report shall immediately provide the
27 department with the name, address, and telephone number of that
28 district.

29 (12) (A) The location of all existing airports, and of all
30 proposed airports shown on the general plan of any city or
31 county, located within two statute miles of the subdivision. If the
32 property is located within an airport influence area, the following
33 statement shall be included in the notice of intention:

NOTICE OF AIRPORT IN VICINITY

This property is presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyances, if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you.

(B) For purposes of this section, an “airport influence area,” also known as an “airport referral area,” is the area in which current or future airport-related noise, overflight, safety, or airspace protection factors may significantly affect land uses or necessitate restrictions on those uses as determined by an airport land use commission.

(13) A true statement, if applicable, referencing any soils or geologic report or soils and geologic reports that have been prepared specifically for the subdivision.

(14) A true statement of whether or not fill is used, or is proposed to be used in the subdivision and a statement giving the name and the location of the public agency where information concerning soil conditions in the subdivision is available.

(15) On or after July 1, 2005, as to property located within the jurisdiction of the San Francisco Bay Conservation and Development Commission, a statement that the property is so located and the following notice:

NOTICE OF SAN FRANCISCO BAY CONSERVATION
AND DEVELOPMENT COMMISSION JURISDICTION

This property is located within the jurisdiction of the San Francisco Bay Conservation and Development Commission. Use and development of property within the commission’s jurisdiction may be subject to special regulations, restrictions, and permit requirements. You may wish to investigate and determine whether they are acceptable to you and your intended use of the property before you complete your transaction.

1 (16) *If the property is within an asbestos hazard zone mapped*
2 *pursuant to Section 2686 of the Public Resources Code, the*
3 *report shall contain the following notice:*

4 NOTICE OF NATURALLY OCCURRING ASBESTOS
5 HAZARD ZONE

6 *This property is located within an area identified by the State*
7 *Geologist as potentially containing naturally occurring asbestos.*
8 *Exposure to asbestos may create a significant health risk, and the*
9 *presence of asbestos-bearing minerals may result in restrictions*
10 *on the use or development of the property. You should consider*
11 *the potential risks associated with the property before you*
12 *complete your purchase and determine whether they are*
13 *acceptable to you.*

14 ~~(16)~~

15 (17) Any other information that the owner, his or her agent, or
16 the subdivider may desire to present.

17 (c) The commissioner may, by regulation, or on the basis of
18 the particular circumstances of a proposed offering, waive the
19 requirement of the submission of a completed questionnaire if the
20 commissioner determines that prospective purchasers or lessees
21 of the subdivision interests to be offered will be adequately
22 protected through the issuance of a public report based solely
23 upon information contained in the notice of intention.

24 SEC. 2. *Section 1103.4 of the Civil Code is amended to read:*

25 1103.4. (a) Neither the transferor nor any listing or selling
26 agent shall be liable for any error, inaccuracy, or omission of any
27 information delivered pursuant to this article if the error,
28 inaccuracy, or omission was not within the personal knowledge
29 of the transferor or the listing or selling agent, and was based on
30 information timely provided by public agencies or by other
31 persons providing information as specified in subdivision (c) that
32 is required to be disclosed pursuant to this article, and ordinary
33 care was exercised in obtaining and transmitting the information.

34 (b) The delivery of any information required to be disclosed
35 by this article to a prospective transferee by a public agency or
36 other person providing information required to be disclosed
37 pursuant to this article shall be deemed to comply with the
38 requirements of this article and shall relieve the transferor or any
39 listing or selling agent of any further duty under this article with
40 respect to that item of information.

1 (c) The delivery of a report or opinion prepared by a licensed
2 engineer, land surveyor, geologist, or expert in natural hazard
3 discovery dealing with matters within the scope of the
4 professional's license or expertise, shall be sufficient compliance
5 for application of the exemption provided by subdivision (a) if
6 the information is provided to the prospective transferee pursuant
7 to a request therefor, whether written or oral. In responding to
8 that request, an expert may indicate, in writing, an understanding
9 that the information provided will be used in fulfilling the
10 requirements of Section 1103.2 and, if so, shall indicate the
11 required disclosures, or parts thereof, to which the information
12 being furnished is applicable. Where that statement is furnished,
13 the expert shall not be responsible for any items of information,
14 or parts thereof, other than those expressly set forth in the
15 statement.

16 (1) In responding to the request, the expert shall determine
17 whether the property is within an airport influence area as
18 defined in subdivision (b) of Section 11010 of the Business and
19 Professions Code. If the property is within an airport influence
20 area, the report shall contain the following statement:

21
22 NOTICE OF AIRPORT IN VICINITY

23 This property is presently located in the vicinity of an
24 airport, within what is known as an airport influence area. For that
25 reason, the property may be subject to some of the annoyances or
26 inconveniences associated with proximity to airport operations
27 (for example: noise, vibration, or odors). Individual sensitivities
28 to those annoyances can vary from person to person. You may wish to
29 consider what airport annoyances, if any, are associated with the
30 property before you complete your purchase and determine whether they
31 are acceptable to you.
32

33 (2) In responding to the request, the expert shall determine
34 whether the property is within the jurisdiction of the San
35 Francisco Bay Conservation and Development Commission, as
36 defined in Section 66620 of the Government Code. If the
37 property is within the commission's jurisdiction, the report shall
38 contain the following notice:

1 NOTICE OF SAN FRANCISCO BAY CONSERVATION
2 AND DEVELOPMENT COMMISSION JURISDICTION
3

4 This property is located within the jurisdiction of the San
5 Francisco Bay Conservation and Development Commission. Use
6 and development of property within the commission's
7 jurisdiction may be subject to special regulations, restrictions,
8 and permit requirements. You may wish to investigate and
9 determine whether they are acceptable to you and your intended
10 use of the property before you complete your transaction.

11 *(3) In responding to the request, the expert shall determine*
12 *whether the property is within an asbestos hazard zone mapped*
13 *pursuant to Section 2686 of the Public Resources Code. If the*
14 *property is within an asbestos hazard zone, the report shall*
15 *contain the following notice:*

16 NOTICE OF NATURALLY OCCURRING ASBESTOS
17 HAZARD ZONE

18 *This property is located within an area identified by the State*
19 *Geologist as potentially containing naturally occurring asbestos.*
20 *Exposure to asbestos may create a serious health risk, and the*
21 *presence of asbestos-bearing minerals may result in restrictions*
22 *on the use or development of the property. You should consider*
23 *the potential risks associated with the property before you*
24 *complete your purchase and determine whether they are*
25 *acceptable to you.*

26 ~~SECTION 1.~~

27 SEC. 3. Section 65302 of the Government Code is amended
28 to read:

29 65302. The general plan shall consist of a statement of
30 development policies and shall include a diagram or diagrams
31 and text setting forth objectives, principles, standards, and plan
32 proposals. The plan shall include the following elements:

33 (a) A land use element that designates the proposed general
34 distribution and general location and extent of the uses of the
35 land for housing, business, industry, open space, including
36 agriculture, natural resources, recreation, and enjoyment of
37 scenic beauty, education, public buildings and grounds, solid and
38 liquid waste disposal facilities, and other categories of public and
39 private uses of land. The land use element shall include a
40 statement of the standards of population density and building

1 intensity recommended for the various districts and other
2 territory covered by the plan. The land use element shall identify
3 areas covered by the plan which are subject to flooding and shall
4 be reviewed annually with respect to those areas. The land use
5 element shall also do both of the following:

6 (1) Designate in a land use category that provides for timber
7 production those parcels of real property zoned for timberland
8 production pursuant to the California Timberland Productivity
9 Act of 1982, Chapter 6.7 (commencing with Section 51100) of
10 Part 1 of Division 1 of Title 5.

11 (2) Consider the impact of new growth on military readiness
12 activities carried out on military bases, installations, and
13 operating and training areas, when proposing zoning ordinances
14 or designating land uses covered by the general plan for land, or
15 other territory adjacent to military facilities, or underlying
16 designated military aviation routes and airspace.

17 (A) In determining the impact of new growth on military
18 readiness activities, information provided by military facilities
19 shall be considered. Cities and counties shall address military
20 impacts based on information from the military and other
21 sources.

22 (B) The following definitions govern this paragraph:

23 (i) "Military readiness activities" mean all of the following:

24 (I) Training, support, and operations that prepare the men and
25 women of the military for combat.

26 (II) Operation, maintenance, and security of any military
27 installation.

28 (III) Testing of military equipment, vehicles, weapons, and
29 sensors for proper operation or suitability for combat use.

30 (ii) "Military installation" means a base, camp, post, station,
31 yard, center, homeport facility for any ship, or other activity
32 under the jurisdiction of the United States Department of Defense
33 as defined in paragraph (1) of subsection (e) of Section 2687 of
34 Title 10 of the United States Code.

35 (b) A circulation element consisting of the general location
36 and extent of existing and proposed major thoroughfares,
37 transportation routes, terminals, any military airports and ports,
38 and other local public utilities and facilities, all correlated with
39 the land use element of the plan.

1 (c) A housing element as provided in Article 10.6
2 (commencing with Section 65580).

3 (d) A conservation element for the conservation, development,
4 and utilization of natural resources including water and its
5 hydraulic force, forests, soils, rivers and other waters, harbors,
6 fisheries, wildlife, minerals, and other natural resources. The
7 conservation element shall consider the effect of development
8 within the jurisdiction, as described in the land use element, on
9 natural resources located on public lands, including military
10 installations. That portion of the conservation element including
11 waters shall be developed in coordination with any countywide
12 water agency and with all district and city agencies that have
13 developed, served, controlled or conserved water for any purpose
14 for the county or city for which the plan is prepared.
15 Coordination shall include the discussion and evaluation of any
16 water supply and demand information described in Section
17 65352.5, if that information has been submitted by the water
18 agency to the city or county. The conservation element may also
19 cover the following:

- 20 (1) The reclamation of land and waters.
- 21 (2) Prevention and control of the pollution of streams and
22 other waters.
- 23 (3) Regulation of the use of land in stream channels and other
24 areas required for the accomplishment of the conservation plan.
- 25 (4) Prevention, control, and correction of the erosion of soils,
26 beaches, and shores.
- 27 (5) Protection of watersheds.
- 28 (6) The location, quantity and quality of the rock, sand and
29 gravel resources.
- 30 (7) Flood control.

31 The conservation element shall be prepared and adopted no
32 later than December 31, 1973.

33 (e) An open-space element as provided in Article 10.5
34 (commencing with Section 65560).

35 (f) A noise element which shall identify and appraise noise
36 problems in the community. The noise element shall recognize
37 the guidelines established by the Office of Noise Control in the
38 State Department of Health Services and shall analyze and
39 quantify, to the extent practicable, as determined by the

1 legislative body, current and projected noise levels for all of the
2 following sources:

3 (1) Highways and freeways.

4 (2) Primary arterials and major local streets.

5 (3) Passenger and freight online railroad operations and
6 ground rapid transit systems.

7 (4) Commercial, general aviation, heliport, helistop, and
8 military airport operations, aircraft overflights, jet engine test
9 stands, and all other ground facilities and maintenance functions
10 related to airport operation.

11 (5) Local industrial plants, including, but not limited to,
12 railroad classification yards.

13 (6) Other ground stationary noise sources, including, but not
14 limited to, military installations, identified by local agencies as
15 contributing to the community noise environment.

16 Noise contours shall be shown for all of these sources and
17 stated in terms of community noise equivalent level (CNEL) or
18 day-night average level (L_{dn}). The noise contours shall be
19 prepared on the basis of noise monitoring or following generally
20 accepted noise modeling techniques for the various sources
21 identified in paragraphs (1) to (6), inclusive.

22 The noise contours shall be used as a guide for establishing a
23 pattern of land uses in the land use element that minimizes the
24 exposure of community residents to excessive noise.

25 The noise element shall include implementation measures and
26 possible solutions that address existing and foreseeable noise
27 problems, if any. The adopted noise element shall serve as a
28 guideline for compliance with the state's noise insulation
29 standards.

30 (g) A safety element for the protection of the community from
31 any unreasonable risks associated with the effects of seismically
32 induced surface rupture, ground shaking, ground failure, tsunami,
33 seiche, and dam failure; slope instability leading to mudslides
34 and landslides; subsidence, liquefaction and other seismic
35 hazards identified pursuant to Chapter 7.8 (commencing with
36 Section 2690) of Division 2 of the Public Resources Code,
37 asbestos hazards identified pursuant to Chapter 7.7 (commencing
38 with Section 2680) of Division 2 of the Public Resources Code,
39 and other geologic hazards known to the legislative body;
40 flooding; and wildland and urban fires. The safety element shall

1 include mapping of known seismic, asbestos, and other geologic
2 hazards. It shall also address evacuation routes, military
3 installations, peakload water supply requirements, and minimum
4 road widths and clearances around structures, as those items
5 relate to identified fire and geologic hazards.

6 (1) Prior to the periodic review of its general plan and prior to
7 preparing or revising its safety element, each city and county
8 shall consult the Division of Mines and Geology of the
9 Department of Conservation and the Office of Emergency
10 Services for the purpose of including information known by and
11 available to the department and the office required by this
12 subdivision.

13 (2) To the extent that a county's safety element is sufficiently
14 detailed and contains appropriate policies and programs for
15 adoption by a city, a city may adopt that portion of the county's
16 safety element that pertains to the city's planning area in
17 satisfaction of the requirement imposed by this subdivision.

18 ~~SEC. 2.~~

19 *SEC. 4.* Section 65302.5 of the Government Code is amended
20 to read:

21 65302.5. (a) At least 45 days prior to adoption or amendment
22 of the safety element, each county and city shall submit to the
23 Division of Mines and Geology of the Department of
24 Conservation one copy of a draft of the safety element or
25 amendment and any technical studies used for developing the
26 safety element. The division may review drafts submitted to it to
27 determine whether they incorporate known seismic, asbestos, and
28 other geologic hazard information, and report its findings to the
29 planning agency within 30 days of receipt of the draft of the
30 safety element or amendment pursuant to this subdivision. The
31 legislative body shall consider the division's findings prior to
32 final adoption of the safety element or amendment unless the
33 division's findings are not available within the above prescribed
34 time limits or unless the division has indicated to the city or
35 county that the division will not review the safety element. If the
36 division's findings are not available within those prescribed time
37 limits, the legislative body may take the division's findings into
38 consideration at the time it considers future amendments to the
39 safety element. Each county and city shall provide the division
40 with a copy of its adopted safety element or amendments. The

1 division may review adopted safety elements or amendments and
2 report its findings. All findings made by the division shall be
3 advisory to the planning agency and legislative body.

4 (1) The draft element of or draft amendment to the safety
5 element of a county or a city's general plan shall be submitted to
6 the State Board of Forestry and Fire Protection and to every local
7 agency that provides fire protection to territory in the city or
8 county at least 90 days prior to either of the following:

9 (A) The adoption or amendment to the safety element of its
10 general plan for each county that contains state responsibility
11 areas.

12 (B) The adoption or amendment to the safety element of its
13 general plan for each city or county that contains a very high fire
14 hazard severity zone as defined pursuant to subdivision (b) of
15 Section 51177.

16 (2) A county that contains state responsibility areas and a city
17 or county that contains a very high fire hazard severity zone as
18 defined pursuant to subdivision (b) of Section 51177, shall
19 submit for review the safety element of its general plan to the
20 State Board of Forestry and Fire Protection and to every local
21 agency that provides fire protection to territory in the city or
22 county in accordance with the following dates as specified,
23 unless the local government submitted the element within five
24 years prior to that date:

25 (A) Local governments within the regional jurisdiction of the
26 San Diego Association of Governments: December 31, 2010.

27 (B) Local governments within the regional jurisdiction of the
28 Southern California Association of Governments: December 31,
29 2011.

30 (C) Local governments within the regional jurisdiction of the
31 Association of Bay Area Governments: December 31, 2012.

32 (D) Local governments within the regional jurisdiction of the
33 Council of Fresno County Governments, the Kern County
34 Council of Governments, and the Sacramento Area Council of
35 Governments: June 30, 2013.

36 (E) Local governments within the regional jurisdiction of the
37 Association of Monterey Bay Area Governments: December 31,
38 2014.

39 (F) All other local governments: December 31, 2015.

(3) The State Board of Forestry and Fire Protection shall, and a local agency may, review the draft or an existing safety element and report its written recommendations to the planning agency within 60 days of its receipt of the draft or existing safety element. The State Board of Forestry and Fire Protection and local agency shall review the draft or existing safety element and may offer written recommendations for changes to the draft or existing safety element regarding both of the following:

(A) Uses of land and policies in state responsibility areas and very high fire hazard severity zones that will protect life, property, and natural resources from unreasonable risks associated with wildland fires.

(B) Methods and strategies for wildland fire risk reduction and prevention within state responsibility areas and very high hazard severity zones.

(b) Prior to the adoption of its draft element or draft amendment, the board of supervisors of the county or the city council of a city shall consider the recommendations made by the State Board of Forestry and Fire Protection and any local agency that provides fire protection to territory in the city or county. If the board of supervisors or city council determines not to accept all or some of the recommendations, if any, made by the State Board of Forestry and Fire Protection or local agency, the board of supervisors or city council shall communicate in writing to the State Board of Forestry and Fire Protection or to the local agency, its reasons for not accepting the recommendations.

(c) If the State Board of Forestry and Fire Protection or local agency's recommendations are not available within the time limits required by this section, the board of supervisors or city council may act without those recommendations. The board of supervisors or city council shall take the recommendations into consideration at the next time it considers amendments pursuant to paragraph (1) of subdivision (a).

~~SEC. 3.~~

SEC. 5. Section 25928 is added to the Health and Safety Code, to read:

25928. (a) Except as provided in subdivision ~~(b)~~ (e), the California Environmental Protection Agency shall convene a task force, ~~consisting of representatives of the Naturally Occurring Asbestos Task Force, consisting of representatives of the State~~

Air Resources Board, the Office of Environmental Health Hazard Assessment, the Department of Toxic Substances Control, the State Air Resources Board, the State Department of Health Services, the Department of Conservation, and, if they agree to participate, representatives of Region IX of the United States Environmental Protection Agency and the Agency for Toxic Substances and Disease Registry of the United States Department of Health and Human Services to evaluate policies and adopt guidelines for the mitigation of risks associated and suggest guidance policies and guidelines for best management practices to mitigate risks associated with activities in areas with naturally occurring asbestos. The California Environmental Protection Agency shall also request the participation on the task force of four representatives from the air quality management districts, who are selected by those districts, in areas that are impacted by naturally occurring asbestos, and two representatives from cities and two representatives from counties that are impacted by naturally occurring asbestos.

(b) The best management practices shall address different types of residential and commercial development and recreational projects.

(c) The best management practices shall provide guidance on varying soil disturbing activities in varying geological and topographical environments.

(d) The State Air Resources Board, in consultation with other impacted state agencies, local government entities, and local air districts, shall periodically review and update the best management practices.

~~(b)~~

(e) The California Environmental Protection Agency may only implement subdivision (a) with federal funds, and shall not implement subdivision (a) until federal funds are received by the agency for that purpose.

(f) Upon convening, the Naturally Occurring Asbestos Task Force shall have one year to develop the best management practices pursuant to this section.

~~SEC. 4.~~

SEC. 6. Chapter 7.7 (commencing with Section 2680) is added to Division 2 of the Public Resources Code, to read:

CHAPTER 7.7. ASBESTOS HAZARDS MAPPING ACT

2680. This chapter shall be known and may be cited as the Asbestos Hazards Mapping Act.

2681. The Legislature finds and declares all of the following:

(a) Asbestos is a known human carcinogen and is known to cause fatal illnesses including, but not limited to, asbestosis, lung cancer, parietal pleura, lung cancer, and mesothelioma.

(b) Asbestos is the name given collectively to the fibrous forms of several naturally occurring silicate minerals that form under high pressure in the earth's crust, which are commonly found near earthquake faults. Geologists divide asbestos into two categories, which differ in both structure and chemical composition. The two types of asbestos are: (1) serpentine, of which chrysotile is the only asbestiform type; and (2) amphiboles, which includes cocidolite, amosite, anthophyllite, and the fibrous form of actinolite and tremolite.

(c) Asbestos is commonly found in ultramafic rock. Serpentine is a type of ultramafic rock. Asbestos is less likely, but may also be present in other forms of rock such as mafic rock. The amount of asbestos that is typically present ranges from less than 1 percent to 25 percent or more.

(d) Ultramafic rock, primarily serpentine, is found in many parts of California, as many as 44 of California's 58 counties, and is especially abundant in the coastal ranges, the Klamath Mountains, and the Sierra foothills, where it is commonly exposed near earthquake faults. The asbestos contained within the rock becomes disrupted and airborne when the rock is broken through soil disturbing activities such as mining, construction, and other land grading activities.

(e) Asbestos, left undisturbed in its rock host, presents no threat to human health. However, activities that release the asbestos into the air or water disturb the asbestos and create an environmental health hazard.

(f) It is necessary to identify and map asbestos hazard zones in order for cities and counties to adequately prepare the safety element of their general plans, and to encourage land use management policies and regulations to reduce and mitigate those hazards to protect public health and safety.

1 2682. (a) It is the intent of the Legislature to provide for a
2 statewide asbestos hazards mapping and technical advisory
3 program to assist cities and counties ~~in fulfilling their~~
4 ~~responsibilities relating to protecting the public health and safety~~
5 ~~from the hazards caused by asbestos.~~

6 (b) It is further the intent of the Legislature that maps and
7 accompanying information provided pursuant to this chapter be
8 made available to local governments for planning and
9 development purposes.

10 2683. As used in this chapter:

11 (a) “Board” means the State Mining and Geology Board.

12 ~~(b) “Geotechnical report” means a report prepared by a~~
13 ~~certified engineering geologist or a civil engineer practicing~~
14 ~~within the area of his or her competence, which identifies~~
15 ~~asbestos hazards and recommends mitigation measures to reduce~~
16 ~~the risk of asbestos hazards to acceptable levels.~~

17 ~~(c)~~

18 ~~(b) “Mitigation” means those measures that are consistent with~~
19 ~~established practice and that will reduce asbestos risk to~~
20 ~~acceptable levels.~~

21 ~~(d) “Project” has the same meaning as in Section 2621.6,~~
22 ~~except as follows:~~

23 ~~(1) A single-family dwelling otherwise qualifying as a project~~
24 ~~may be exempted by the city or county having jurisdiction of the~~
25 ~~project.~~

26 ~~(2) “Project” does not include alterations or additions to any~~
27 ~~structure within an asbestos hazard zone that do not exceed either~~
28 ~~50 percent of the value of the structure or 50 percent of the~~
29 ~~existing floor area of the structure.~~

30 ~~(c) “Project” means any of the following:~~

31 ~~(1) The whole of an action that has a potential for disturbing~~
32 ~~the soil in an asbestos hazard zone.~~

33 ~~(2) Activities undertaken by a public agency where soil may be~~
34 ~~disturbed, including, but not limited to, public works construction~~
35 ~~and related activities; clearing or grading of land; improvements~~
36 ~~to existing public structures; and the development of parks,~~
37 ~~playgrounds, and other recreational facilities.~~

38 ~~(3) A private project that will be carried out by a person other~~
39 ~~than a governmental agency that needs an approval from a~~
40 ~~governmental agency.~~

1 (d) *For an activity that requires the approval of more than one*
2 *governmental agency, the term “project” shall not mean each*
3 *separate governmental approval.*

4 2684. (a) ~~A person who is acting as an agent for a transferor~~
5 ~~of real property that is located within an asbestos hazard zone, as~~
6 ~~designated under this chapter, or the transferor, if he or she is~~
7 ~~acting without an agent, shall disclose to any prospective~~
8 ~~transferee the fact that the property is located within an asbestos~~
9 ~~hazard zone.~~

10 (b) ~~Disclosure is required pursuant to this section only when~~
11 ~~one of the following conditions is met:~~

12 (1) ~~The transferor, or transferor’s agent, has actual knowledge~~
13 ~~that the property is within an asbestos hazard zone.~~

14 (2) ~~A map that includes the property has been provided to the~~
15 ~~city or county and a notice has been posted at the offices of the~~
16 ~~county recorder, county assessor, and county planning agency~~
17 ~~that identifies the location of the map and any information~~
18 ~~regarding changes to the map received by the county.~~

19 (c) ~~In all transactions that are subject to Section 1103 of the~~
20 ~~Civil Code, the disclosure required by subdivision (a) of this~~
21 ~~section shall be provided by either of the following means:~~

22 (1) ~~The Local Option Real Estate Transfer Disclosure~~
23 ~~Statement, as provided in Section 1102.6a of the Civil Code.~~

24 (2) ~~The Natural Hazard Disclosure Statement, as provided in~~
25 ~~Section 1103.2 of the Civil Code.~~

26 (d) ~~For purposes of the disclosures required by this section, the~~
27 ~~following persons shall not be deemed agents of the transferor:~~

28 (1) ~~Persons specified in Section 1103.11 of the Civil Code.~~

29 (2) ~~Persons acting under a power of sale regulated by Section~~
30 ~~2924 of the Civil Code.~~

31 (e) ~~For purposes of this section, Section 1103.13 of the Civil~~
32 ~~Code applies. A city or county that receives an official map~~
33 ~~pursuant to subdivision (b) of Section 2686 shall, within six~~
34 ~~months of receiving that official map, require disclosure of real~~
35 ~~property that is located within an asbestos hazard zone on the~~
36 ~~form set forth in subdivision (b) of Section 1102.6a of the Civil~~
37 ~~Code.~~

38 (b) *In the next edition of the “Homeowners’ Guide to*
39 *Environmental Hazards,” prepared pursuant to Section 10084.1*
40 *of the Business and Professions Code, but in no event later than*

1 *January 1, 2007, the Department of Real Estate shall, in the*
2 *chapter of the “Homeowners’ Guide to Environmental Hazards”*
3 *regarding asbestos, include information and consumer resources*
4 *regarding naturally occurring asbestos and maps prepared*
5 *pursuant to Section 2686.*

6 ~~(f)~~

7 (c) The specification of items for disclosure in this section
8 does not limit or abridge any obligation for disclosure created by
9 any other provision of law or that may exist in order to avoid
10 fraud, misrepresentation, or deceit in the transfer transaction.

11 2685. (a) On or before July 1, 2006, the board, in
12 consultation with the director ~~and the commission~~, shall develop
13 all of the following:

14 (1) Guidelines for the preparation of maps of asbestos hazard
15 zones in the state.

16 (2) Priorities for mapping of asbestos hazard zones. In setting
17 priorities, the board shall take into account the following factors:

18 ~~(A) The population affected by the asbestos hazards in the~~
19 ~~event of an earthquake.~~

20 ~~(A) The likelihood of development within an area occurring in~~
21 ~~the near future.~~

22 (B) The probability that the asbestos hazards would threaten
23 public health and safety.

24 ~~(C) The willingness of lead agencies and other public agencies~~
25 ~~to share the cost of mapping within their jurisdiction.~~

26 ~~(C) The contents of a geotechnical report.~~

27 (D) The availability of existing information.

28 ~~(3) Policies and criteria regarding the responsibilities of cities,~~
29 ~~counties, and state agencies pursuant to this chapter. The policies~~
30 ~~and criteria shall address, but not be limited to, the following:~~

31 ~~(A) Criteria for approval of a project within an asbestos hazard~~
32 ~~zone, including mitigation measures.~~

33 ~~(B) The contents of the geotechnical report.~~

34 ~~(C) Evaluation of the geotechnical report by the lead agency.~~

35 ~~(4) Guidelines for evaluating asbestos hazards and~~
36 ~~recommending mitigation measures.~~

37 ~~(5) Any necessary procedures, including, but not limited to,~~
38 ~~processing of waivers pursuant to Section 2684, to facilitate the~~
39 ~~implementation of this chapter.~~

(b) At least 90 days prior to adopting measures pursuant to this section, the board shall transmit or cause to be transmitted a draft of those measures to affected cities, counties, and state agencies for review and comment.

2686. (a) The State Geologist shall compile maps identifying asbestos hazard zones, consistent with the requirements of Section 2685. The maps shall be compiled in accordance with a time schedule developed by the director and based upon the provisions of Section 2685 and the level of funding available to implement this chapter.

(b) The State Geologist shall, upon completion, submit asbestos hazard maps compiled pursuant to subdivision (a) to the board and all affected cities, counties, and state agencies for review and comment. Concerned jurisdictions and agencies shall submit all comments to the board for review and consideration within 90 days.

Within 90 days of board review, the State Geologist shall revise the maps, as appropriate, and shall provide copies of the official maps to each state agency, city, or county, including the county recorder, having jurisdiction over lands containing an area of asbestos hazards. The county recorder shall record all information transmitted as part of the public record.

(c) In order to ensure that sellers of real property and their agents are adequately informed, any county that receives an official map pursuant to this section shall post a notice within five days of receipt of the map at the office of the county recorder, county assessor, and county planning agency, identifying the location of the map, any information regarding changes to the map, and the effective date of the notice.

~~2687. (a) Cities and counties shall require, prior to the approval of a project located in an asbestos hazard zone, a geotechnical report defining and delineating any asbestos hazard. If the city or county finds that no undue hazard of this kind exists, based on information resulting from studies conducted on sites in the immediate vicinity of the project and of similar soil composition to the project site, the geotechnical report may be waived. After a report has been approved or a waiver granted, subsequent geotechnical reports shall not be required, provided that new geologic datum, or data, warranting further investigation is not recorded. Each city and county shall submit~~

~~one copy of each approved geotechnical report, including the mitigation measures, if any, that are to be taken, to the State Geologist within 30 days of its approval of the report.~~

~~(b) In meeting the requirements of this section, a city or county shall consider the policies and criteria established pursuant to this chapter. If a project's approval is not in accordance with the policies and criteria, the city or county shall explain the reasons for the differences in writing to the State Geologist, within 30 days of the project's approval.~~

2687. (a) When approving a project within a hazard zone, a city or county shall require compliance with the applicable local government and local air district rules, regulations, and ordinances, including, but not limited to, airborne toxic control measures, to mitigate the impact of naturally occurring asbestos.

(b) In addition to requiring compliance with all federal, state, and local laws, regulations, and ordinances, when a city or county issues a permit for an activity that may result in soil disturbance and that is not subject to a local air district's regulations or project approval process, the city or county shall provide the applicant with a one page summary of measures that the applicant may take to reduce or mitigate exposure to naturally occurring asbestos. This may include a referral to the Internet Web sites of the State Air Resources Board or the local air district.

(c) When made available, a city, county, and any other relevant regional agency shall incorporate the best management practices developed by the Asbestos Task Force into local rules, regulations, and ordinances.

(d) Nothing in this division shall limit a city or county from imposing more stringent mitigation measures than those required by state law.

2688. Nothing in this chapter is intended to prevent cities and counties from establishing policies and criteria that are more strict than those established by the board.

2689. Each city and county, in preparing the safety element to its general plan pursuant to subdivision (g) of Section 65302 of the Government Code, and in adopting or revising land use planning and permitting ordinances, shall take into account the information provided in available asbestos hazard maps.

1 ~~SEC. 5.~~

2 ~~SEC. 7.~~ Section 2699.5 of the Public Resources Code is
3 amended to read:

4 2699.5. (a) There is hereby created the Seismic Hazards
5 Identification Fund, as a special fund in the State Treasury.

6 (b) Upon appropriation by the Legislature, the moneys in the
7 Strong-Motion Instrumentation and Seismic Hazards Mapping
8 Fund shall be allocated to the division for purposes of this
9 chapter, Chapter 7.7 (commencing with Section 2680), and
10 Chapter 8 (commencing with Section 2700).

11 (c) On and after July 1, 2004, the Seismic Hazards
12 Identification Fund shall be known as the Strong-Motion
13 Instrumentation and Seismic Hazards Mapping Fund.

14 ~~SEC. 6. If the Commission on State Mandates determines that~~
15 ~~this act contains costs mandated by the state, reimbursement to~~
16 ~~local agencies and school districts for those costs shall be made~~
17 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
18 ~~4 of Title 2 of the Government Code.~~

19 ~~SEC. 8. No reimbursement is required by this act pursuant to~~
20 ~~Section 6 of Article XIII B of the California Constitution because~~
21 ~~a local agency or school district has the authority to levy service~~
22 ~~charges, fees, or assessments sufficient to pay for the program or~~
23 ~~level of service mandated by this act, within the meaning of~~
24 ~~Section 17556 of the Government Code.~~

25
26
27 CORRECTIONS:

28 Text — Pages 16, 17, and 24.
29